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April 13, 2005

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The Honorable Gerard E. Lynch
United States District Judge
United States Courthouse
40 Centre Street
New York, New York 10007

USDC SDNY
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Re: Bernstein v. Pataki, 05-CV-1322 (GEL)

Dear Judge Lynch:

The Attorney General represents the Defendants in this action, which concerns a claim that certain incapacitated criminal defendants subject to Section 730.40 of the New York Criminal Procedure Law ("CPL") have experienced violations of their due process and equal protection rights. Defendants have moved to dismiss the Complaint pursuant to Section 12 (b) (6) of the Federal Rules of Civil Procedure, and Plaintiffs have opposed that motion. Defendants' reply brief is due today.

* [Defendants request that they be allowed a five-page enlargement of this Court's ten-page limit on reply briefs. This case involves issues of procedural and substantive due process and equal protection. Despite our attempts to confine their discussion of these issues to ten pages, we are having difficulty providing a useful explanation of these difficult constitutional questions within this page limit. I have discussed this request with my adversary, and he states he does not oppose it. Accordingly, I respectfully request that Defendants be permitted to file a reply brief up to fifteen pages in length.

SO ORDERED

Gerard E. Lynch
GERARD E. LYNCH, U.S.D.J.

4/13/05

Respectfully yours,

Edward J. Curtis, Jr.
EDWARD J. CURTIS, JR. (2121)
Assistant Attorney General

ejc

cc: (by fax) Stephen Harkavy